

Y-51068 B4-113
P.O. BOX 3030 H.D.S.P.
SUSANVILLE, CA 96127

CRB 55

COURT CLERK
NORTHERN DIST CRT H.S.E.
NORTHERN DIST OF CALIF

Daniel Portugal
v.
T. Feller - warden
ET - AL - custody staff

FILED

JUL 9 2008

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

E-filing

CV 08 3311

Case No.

CRB (PR)

Motion - seeking issuance of
Temporary restraining order &
Preliminary injunction order -
against any reprisal by staff
of any manner

(Signature) Daniel Portugal - Y-51068 Do solemnly swear that to the best of
my ability, knowledge this entire entitled Document/Motion to be
true and correct according to the color & letter of law, and
under the penalty of perjury, I'm seeking of your honorable
court a Preliminary Injunction be issued/served upon
this institution's warden T. Feller and it's custody
staff (E.E) Receiving & Release, AD-SEG 9-B YRD staff
those envolved with my day to day handling, escort, Etc
all I can do to name any & all of them who've threatened my
person with physical/bodily harm is say "John Doe &
Jane Doe" there bosses, which their sign in log & Daily
log will reflect as they won't tell you their name(s) or badge
number(s) and most of the time they keep it covered up
with a suspender shoulder strap or something of that
nature if they even have one on your honorable court

*"Do not feel safe" at this institution" Please assist
me in & with the temporary restraining order & Prelimi-
nary injunction and "in & with my being moved-trans-
ferred to an institution where I'm close to my family
② where I may be able to program safety and be free*

CRB
BB-1
CRB
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CRB

Free From harm & Potential threats & Bodily harm's
and if you would issue an order of Protection "special
handcuffing" anyone of keeping & forcing this institutions
custody staff to refrain from any type manner or form
of retaliation "on or against my person" Please, your
honor" I "Begging of your honorable court" for this "layman
at law's" Prayer for relief - Upon your's or your court I Please
mas / Judge T.E. Henderson "I need your immediate help"
Mr. richard w. weiking SNR clerk of the court I'm beggining
of you sir to bring these motions my Prayer for Relief be to
the honorable mas / Judge T.E. Henderson as I'm at the
1st or 2nd most violent Penitentury in the country state
of California, there reputation & persosity for violence -
against ethme Ims & anyone who draws heat, creates -unw-
anted & undue outside attention from the court or sacra-
ment of those who aren't infected with "this redneck -
good off-boy - Green wall 2nd to only Pleasant Valley,
Pelican Bay & corcoran state prisons Agnews Valley

Dated 7-29-08
Daniel Portillo

Daniel Portugal

✓
Warden T. Felker
(ET-AL) custody staff

Points of Authority

- ① Cruz v. Beto 405 U.S. 319, 311 Ed 2d 263, 92 S.Ct. 1079 (1972)
- ② Cooper v. Pate, 378 U.S. 546, 121 Ed 2d 1030, 84 S.Ct. 1733 (1964)
- ③ Wolff v. McDonnell 418 U.S. 539, 41 Ed 2d 935, 94 S.Ct. 2963 (1974)
- ④ Hudson v. Palmer 468 U.S. 517, 526-27, 104 S.Ct. 3194, 82 1.Ed 2d 393 (1984)
- ⑤ Desharnais v. Winnebago County Dept of School Services 489 U.S. 189, 200, 109 S.Ct. 998, 103 L.Ed.2d 249 (1989)
- ⑥ Youngberg v. Romeo 757 U.S. 307, 315-16-102, S.Ct. 2452, 73 L.Ed.2d 28 (1982)
- ⑦ Farmer v. US. 511 U.S. at 834, 114 S.Ct. (1970)
- ⑧ Moore v. Malbus, 976 F.2d 268, 271 (5th Cir 1992)
- ⑨ Martinez v. Stanford 323 F.3d 1178, 1183 (9th Cir 2003)
- ⑩ U.S. v. Lopez US. Ca 9th Cir No -05 S.0415
- ⑪ Serrato v. Clark US. Ca 9th Cir No 06 15167 May 9 2007)
- ⑫ Re: Rosenthal (2002) 29 Cal 4th 616, 666-128 Cal Rptr 2nd 104 " 0" at 651
- ⑬ Motley v. Parks 432 F.3d 1072, 1077-78 (9th Cir 2005)

②

Dated 6-29-08
Daniel Portugal

Danie Portugal

v.

Warden-T. Feltke
(ET-A1) custody STAFF

— Points of Authority —

- ① mouney V. Holonen SS S. CT 340 294 U.S. 103
- ② Deluna (2005) 126 Cal APP 4TH 585, 59, 24 Cal Rptr
- ③ mc guillion V. Duncan (9TH Cir 2002) 306 F.3d 895, 901-902
- ④ Redd V. McGrath (9TH Cir 2003)
- ⑤ Serrato V. Clark U.S. Ca 9TH Cir No. 0615167-5-07 Cir 9TH
- ⑥ Olsen V. IDAHO 363 F.3d 916, 922 9TH Cir '04
- ⑦ Martinez V. Stanford, 323 F.3d 1178, 1183 (9TH Cir. 03)
- ⑧ motley V. Parks, 432 F.3d 1072, 1077-78 (9TH Cir. 05)

dated 6-29-08

Danie Portugal

(3)

ms1068 BY-113
P.O. BOX 3030 H.O.S.P.
SUSANVILLE, CA 96127

Pro-Per
Pro-Per

Court Clerk
Northern Dist CRT HSE
Northern Dist of Calif.

V-51068

Daniel Portugal Prose
Pro-Per

T. Felker-Warden
(ET-AT) custody staff;

Case No.

Motion seeking issuance
of temporary restraining
order - Against custody staff
from any further threats aga-
inst me, harassment of me

I Daniel Portugal - Do solemnly swear, that this entire entitled document to the best of my ability and knowledge is true and correct - under the penalty of perjury and according to the letter of the law and to the color of the law, I am seeking, requesting of your honorable court, the issuance of this motion regarding my present and future safety and on an again this prisons custody staff in an with my handling, threats of physical harm to my person by custody staff that is it has been involved with my movement & in dealing with me in any manner since my arrival at High Desert state prison due to my being transferred here from Salinas Valley state prison, due to my being a somewhat successful prison litigator and safety & security issues there, from threats of violence & harm to my person both in writing received by staff and verbally as well being over heard by staff upon my arrival at high Desert state prison at receiving, release (R&R) I was Verbally threatment, by staff as soon as they saw my legal work do to the nature of my transfer to there institution, as they have display a flagrant attitude towards, again

(S.N.Y.) inmate's and they make that quite clear by physical, verbal abuse of towards (us) myself, shortly after my arrival I wrote a letter to warden T. Feltke regarding this matter of my concerns as I've laid be placed in (ASU). Do to my concerns, as I've laid them out in this motion, for your honorable court and for what ever reasons my request's & my letter were denied, I'd clearly laid out all of my concerns of safety to my person my enemy situations which entitle a clear and eminent potential safety, security issue ETC. ETC. In conclusion I'm requesting of your honorable court, the issuance of this T.R.O - temporary restraining order against on this instir action - warden - custody staff, my being placed in (AD - Seg) unit, a transfer can be facilitated to a safe institution where I can program free from harm and in a close proximity my family & I go's will, would reflect all names of custody staff involved.

Dated 6-29-08
Doris Portugal

Daniel Portugal

Warden T. Felker
(ET-AL) custody staff

- Points of Authority -

① This Prisons NON compliance with the
due process clause of the Federal constitutions

② (342 F. supp 46)

③ (483 F. 2d 1059)

④ Robert O'Me O'Donnell, ETC-418 U.S. 539, 41 L. Ed 2d 935, 94
S.C.T. 2963 No: 73-679 (1974)

⑤ Garner - Supra 529 U.S. 254 AT EXPO FACTO.

⑥ Formost-Rosenkrantz 483 F. 2d 1059

⑦ Included in above cite is Charles Wolff Jr. ETC-ET AL
Petitioner(s) these above & entitled Points of authority
are to include & being requested of & by way of your
Honorable court issuing an additional order, that no
reprisals be taken against, or shall any be administered
to -ON-OR in any fashion against this Plaintiff, in this
entitled action in its entirety which is I/M Daniel
Portugal - V-51068, 9/ET-AL) F/H/S as is the Plaintiff in
this instant action, and ongoing pending litigation -
Pursuant to this unconstitutional action of & by -Dept
correc, & Rehab Violating his due process rights
to unimpeded access to the courts subjecting this
Plaintiff I/M D. Portugal - to cruel & unusual punishment
the right to bring a grievance, or action to &
through the administrative process & to the courts

V-51068 B-4113
P.O. box 3030
SUSANVILLE, CALIF 96127
Pro-Per
H.O.S.P.

COURT CLERK
NORTHERN DIST. CRT. HSE;
NORTHERN DIST OF CALIF

Daniel Portugal

V

T. Felker - Warden, (ET- AC) custody staff

Motion / letter for
a seeking prayer of
relief of your Honorable
Court:

Court Clerk - Richard W. Welking;

Dear: Judge Watson E. Henderson

I am writing this motion regarding on
Safety Security and concern against this Prison
High Desert, appellant Daniel Portugal # V-51068
I would like to request to be transfer from this
institution due to this matter's.

Prospective relief / Preliminary injunction's
appellant has a history of filed many complaint again CDC
due to my lawsuit civil rights Act, 42 U.S.C. § 1983.
Salinas Valley transfer me to this institution, the
circumstances is the I have Safety Security, concern
issue's, appellant send a letter to the warden T. Felker
regarding this matter but for whatever reason my
request was denial to be place on ASB. due to my
concerned safety and enemies security issues, etc. threats
verbal Harassment physical harm many times.

①

legal analysis and conclusions , prison official must
Provide humane conditions of confinement, must take 37 F. supp.
2d 927 reasonable measures to guarantee the safety of the
Inmate "see Hudson v Palmer, 468 U.S. 517, 526-27 104 S.C.T.
3194, 82 1. Ed. 2d 393 (1984) see Segranney v. Winnebago
County Dept of social services, 489 U.S. 189, 200 S.C.T. 998, 103
L.3d 2d 249 (1989) it is "cruel and unusual punishment to hold
confined criminals in unsafe conditions "youngberg v. Romeo

457 U.S. 307-315-16,102 S.Ct. 2452,73 L.Ed.2d 2228 (1982) prison official have a duty....to protect prisoners from violence at the hands of other prisoners." "Gratuitously allowing the beating of one prisoner by another serves no "legitimate penological objective" the objective component of a failure to provide reasonable protection from harm claim is "Incarceration under conditions posing a substantial risk of serious harm" Farmer, 511 U.S. at 884, 114 S.Ct. 1970. The Fifth Circuit has affirmed that(s) one conditions of confinement may establish an Eighth Amendment violation" in combination when each would not do so alone, but produces the only when they have a mutually enforcing effect that produces the deprivation of a single, identifiable human needs" Moore v. Malbus 976 F.2d 268,271 (5th Cir 1992) "A" remedy for unsafe conditions needs not await a tragic event" Hellings v. McKinney, 509 U.S. 25,33 113 S.Ct. 2475, 125 L.Ed.2d 22 (1993) inmate must be protected against present future dangers + Horton v. Cockrell 70 F.3d 397 40 (5th Cir 1995) (citing Hellings v. McKinney, 509 U.S. 25 113 S.Ct. 2475, 125 L.Ed.2d (1993) prison authorities must protect not only against current threats but also guard against "sufficiently imminent dangers that are likely to cause harm in the "next week or month or year!" Horton v. Cockrell 70 F.3d 397 40 (5th Cir 1995) quoting Hellings v. McKinney, 509 U.S. at 32-33 113 S.Ct. 2475) The subjective component of a failure to provide reasonable protection from harm claims is "deliberate indifference".

(2)

which is "more than mere negligence" in failing to prevent harm and acts or missions for the very purpose of causing harm or with knowledge that harm will result thus it the equivalent of acting recklessly" Farmer 511 U.S. at 836. 114 S.C.T. 1970 the obviousness of the risk from facts known to the appellant is circumstantial, but rebuttable, proof that defendant inferred the risk. Id at 840. 44 114 S.C.T 1970; Bradley v. Puckett 157 F.3d 1022, 1025 (5th Cir. 1998) In Alberti, the district court concluded that "inmate beatings and attacks are prevalent" Albert 790 F.2d at 1224 (quoting Albert v. Heard, 600 F. Supp. 443, 457 S.D. Tex. 1983). The Fifth Circuit held that it "determine whether an Eighth Amendment violation as well according to chapter 3 section 3.3, a transfer may violate some other constitution protection for example, a transfer might subject a prisoner to cruel and unusual punishment if the prison would be placed with known enemies or others who would cause serious harm. Prisoner are often very concerned about where they serve their time, especially if they hope to receive visits from family and friends" family ties, prison placement are specifically discussed in § 3.4 or they wish to be in a particular program or housing arrangement that is available only at certain prisons. Once a person is validly convicted, the requirement of due process under the Fourteenth Amendment of the U.S. Constitution. See Farmer v. Brennan 1994) 511 U.S. 825 (114 S.C.T. 1970;

128 L.Ed. 811) prison officials have duty to protect prisoners from violence at the hands of other prisoners; a constitutional violation occurs when the danger of harm is "sufficiently serious" and the prison official acts with "deliberate indifference" to inmate health or safety). See also § 2.24 (concerning reasonable

(4) safety concerns and chapter 7 concerning housing needs related to medical care - as for the record as well I been on High Desert Prison for more 3 1/2 and still this institution has not allowed me to receive my personal property especially when all my property arrive with me on R&R, still have not receive any fish kit Higiene, laundry schedule all I have is on part of socks,boxers and shirt I ask many times to Yo, Sgt's regarding some clothing or my legal property, and personal property as well but I try to resolve this issue on informal level due to the circumstance appellant has not receive any reply regarding this matter.

(5) this actions are "cruel and unusual conditions to live, appellant would like to request for protection to him and correlate for this institution not to make or a false 1030 report against appellant estimate for weapons or drug's, assault on staff. The due process clause protects a state prisoner's right under first amendment, 1, 8 amendment against "cruel and unusual punishment

Dated 6-29-08


Daniel P. O'Neil
Appellant/Defendant

RECEIVED
08 JUL -2 PM 12:47
RICHARD W. WIERING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
BA front

Desert State Prison
Danner Courtland V-81068 H.D.S.P.
P.O. Box 3030 #4-113
Susanville, Ca 96127

RENO NV 895
30 JUN 2008 PM 1
"LET US DARE TO
THINK, SPEAK AND
John Adams, 1765
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USA THIS CLASS NOT FOR
REFLECTION

Legal Mail -
Per CCR-15 Art 4.3 142 C,2 34152+3362 2500
6-29-08

STATE PRISON
U.S. District Court
Court Room 12, Floor 19
450 Golden Gate Avenue
San Francisco, Ca 94102

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